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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Attorney General

COMPLETED

Community-Based Correctional Programs Could Be More Extensively Used Within The Federal Criminal Justice System

Because of a lack of funds, the Bureau of Prisons postponed a pilot project designed to help fill the sentencing void between probation and confinement in an institution. In view of the increasing Federal prison population, GAO believes that the decision not to go ahead with this project should be reconsidered.

Also, the Bureau uses halfway houses to help incarcerated offenders make the transition from the institution to the community. GAO's work showed that the Bureau could offset a larger portion of the operating costs of this program by enforcing its policy on halfway house residents paying a share of their room and board. The Department stated that, to the extent practicable, it would implement GAO's recommendation on this matter.

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B-203246

The Honorable William French Smith
The Attorney General

Dear Mr. Attorney General:

Traditionally, the Federal courts have used two options for sentencing offenders--probation, with or without restrictions, and confinement in an institution. Our work has shown that there is a need for an alternative that will help fill the void between these options. Officials of the courts, probation service, and corrections have informed us they are concerned about the absence of an alternative for certain nonviolent offenders who may not need the secure environment provided by an institution, but who do need more control and supervision than that normally provided by probation.

Our work showed that the Bureau of Prisons and the Federal Probation Service developed plans for a pilot project designed to meet this need, but the project was postponed because of the fiscal year 1982 budget cuts. We believe that the decision not to go ahead with the project should be reconsidered. Since the Federal prison population has risen above capacity and indications are that it will continue to rise, we believe that it would be beneficial for the Federal Government to begin to test alternative sentencing options as soon as possible. Such an approach would enable the Bureau to more effectively cope with its present and future overcrowding problems.

We performed our work at the Bureau of Prisons headquarters in Washington, D.C., the Bureau's Western Regional Office, the Administrative Office of the U.S. Courts, selected District Courts, and the Federal Probation Service. We also discussed this issue with officials from State Courts and Departments of Corrections in Maryland, California, Massachusetts, Virginia, and Georgia. Most of the information we obtained to support the need for an additional sentencing alternative was based on interviews with individuals from these organizations.

During our fieldwork, an additional matter came to our attention. The Bureau uses halfway houses to help incarcerated

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offenders make the transition from the institution to the community. We found that the Bureau could offset a larger portion of the operating costs of this program by enforcing its policy on residents of halfway houses paying a share of the costs of their room and board. Although the Bureau recently took action in this regard, we are concerned that problems we noted will continue to exist.

Additional information on these matters follows.

AN ADDITIONAL SENTENCING ALTERNATIVE IS NEEDED AT THE FEDERAL LEVEL

Our discussions with Federal judges, probation officers, Bureau of Prisons officials, and officials involved with alternative sentencing programs at the State and local levels showed that a need exists at the Federal level for a sentencing alternative to help fill the void between incarceration and probation.

The Bureau attempted to meet this need by encouraging Federal judges to commit offenders directly to halfway houses, but such attempts were not successful. The Bureau and the Federal Probation Service subsequently developed a pilot project which was designed to be more acceptable to the courts, but its implementation was postponed because of the fiscal year 1982 budget cuts. In our opinion, the decision not to continue this project should be reconsidered.

Federal officials stated that some incarcerated Federal offenders could be housed in a less secure setting

Bureau statistics show that more than half of all Federal prisoners are guilty of nonviolent crimes such as property offenses. According to corrections and criminal justice officials we talked to, many of these offenders could be more effectively dealt with in an atmosphere combining a community setting with partial confinement and close supervision. They believe that certain nonviolent offenders need a sentencing alternative that provides less supervision than incarceration but more than that provided by probation. In such an environment, the offenders could work to help support their families, pay taxes, perform community service, pay fines, or make restitution to victims.

An important consideration in an alternative sentencing program is determining who would be eligible for placement. Officials advised us that eligible offenders could include those convicted of nonviolent "white collar," property, and certain

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drug crimes. The following nonviolent offenders might also be eligible:

--first-time offenders;

--repeat offenders who are not hardened criminals;

--offenders who previously had good employment records;

--offenders whom the court believes need more supervision than can be given through probation but who might suffer unreasonably or become more hardened by going to prison; or

--offenders sentenced to 6 months or less in prison.

There is no sound basis upon which to determine how many Federal offenders could possibly be better served in an alternative program. Almost all officials we contacted said that the decision to use alternative sentences would have to be made on a case-by-case basis, but they were consistent in stating that violent, hard-core, and habitual offenders have no place in such programs.

An alternative sentencing program, in addition to enabling the Bureau to more effectively deal with certain types of offenders, also offers the potential for relieving overcrowding and reducing the costs associated with building additional prisons. Until recently, prison overcrowding has mostly been limited to State prisons; but during 1981 the problem also emerged in Federal institutions. On June 8, 1981, the Bureau reported an inmate population of 25,200. On December 21, 1981, about 6 months later, this figure had increased to about 27,000. Since the physical capacity of the Bureau's institutions is 24,000, a continued increase in the prison population would add emphasis to the importance of seeking an alternative to traditional prison sentences.

Several States already have alternative sentencing programs

A sentencing alternative between incarceration and probation is not new within the criminal justice system. Several States such as Minnesota, Oregon, Georgia, Virginia, Ohio, and Colorado are providing such sentencing alternatives. Not all of these States have as yet evaluated the results of their respective programs; however, Oregon retained a private consulting firm to evaluate its program, which began in 1978. The consulting firm concluded in its January 1981 report to the State legislature that continuation of the program would be a reasonable, prudent, and sound decision for the State. The

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evaluators found that the program was cost effective, especially considering such factors as wages lost by individuals who would have been incarcerated and welfare payments that would have to be paid to families whose breadwinners were incarcerated. The evaluators projected that the State saved from $1.8 to $2.2 million annually by operating the alternative sentencing program.

Georgia has also compiled information on the specific benefits of its alternative sentencing program. In fiscal year 1981, its 12 community centers served more than 1,500 residents, 98 percent of whom were employed full time. These residents earned $2.2 million and paid over $400,000 in taxes and $645,262 in room and board assessments. In addition, the residents performed almost 39,000 hours of compulsory public service work. The program director told us that, without the alternative sentencing program, Georgia would need a 400-bed prison facility to house the program participants.

Federal attempts to use existing halfway houses for this purpose have not been successful

The Federal corrections system currently has no program specifically designed to serve as a sentencing alternative between incarceration and probation. However, the Bureau contracts with about 400 State, local, and private halfway houses to help Federal offenders make the transition between prison and society. In 1981, more than 9,000 Federal prisoners returned to society through these halfway houses.

The Bureau Director and Deputy Attorney General have encouraged Federal judges to commit more offenders directly to halfway houses, but this option has been used infrequently. The primary reason given by judges for not making such direct sentencing commitments is that they believe halfway houses are not sufficiently restrictive and structured to effectively serve as an alternative to a prison sentence. Judges' comments indicate that they would generally prefer to see more discipline in facilities used for direct commitments than is currently found in the halfway houses. Specifically, most judges and corrections officials we interviewed said that, to be acceptable, a facility for direct commitments should include punishment as a primary goal and cited certain factors that should be present, including

--strict monitoring of an offender's whereabouts at all times;

--close supervision of an offender, including tight restrictions and discipline;

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--an understanding on the part of an offender that failure to succeed in the program will result in going to prison; and

--a requirement that all participants find and maintain employment.

Plans to test a sentencing alternative were developed but not implemented

During the course of our work, the Bureau and the Federal Probation Service agreed to work jointly on a pilot project to develop a model community-based sentencing alternative. The program's goals were to

--provide the court with an alternative community-based sanction to be used for adult offenders in lieu of more restrictive confinement sentences;

--provide for sentences to community facilities which would be perceived by judges and the public as being equal in punishment to commitment to a confinement facility;

--seek to protect the community by carefully monitoring the offenders' activities and behavior; and

--include in the program offenders who would otherwise serve short sentences in local jails or minimum security correctional facilities.

In discussing the target population for the project, the draft proposal said:

> "Two types of people appear as likely candidates: One is the criminally unsophisticated offender who, because of the nature or magnitude of the offense, the individual's notoriety, or other extenuating circumstances make release to street supervision inappropriate. Second, is the offender who has a history of an undisciplined response to street supervision, but does not appear to need the structure of a full confinement facility. Offenders with a history of violence, or who would pose a threat in the community would be excluded."

Individuals assigned to the program would be required to make a commitment to conform, at a minimum, to the following requirements:

--Secure and maintain meaningful employment.

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--Participate in activities directed toward changing behavior which appears related to their crime (alcohol, drugs, emotional problems).

--Participate in wholesome leisure time activities.

--Account for their whereabouts at all times.

--Abide by all conditions imposed by the court including, but not limited to, restitution to victims, adherence to established court-ordered child support or alimony, community service orders, etc.

The Bureau planned to implement the project in fiscal year 1982. However, because of budget reductions, the Bureau postponed its implementation.

The budget reduction forced the Bureau to make a difficult management decision. Of concern to us, however, is the potential long term effect of delaying the implementation of the pilot program. If the prison population continues to rise and decisions have to be made on how best to cope with overcrowding, it would be useful to have information on the feasibility of using this program as an alternative to incarceration.

THE BUREAU NEEDS TO DETERMINE WHAT ACTION HALFWAY HOUSES ARE GOING TO TAKE IN RESPONSE TO ITS RECENT MEMORANDUM ON THE COLLECTION OF RENT FROM INMATES

At the time we began our fieldwork, Bureau policy stated that unless a waiver was granted, employed inmates residing in halfway houses were expected to pay rent of $2 per day. Our work showed that the policy, which had been in effect since about 1965, was not being consistently applied by Bureau officials responsible for negotiating contracts with halfway houses. As a result, some halfway houses were collecting rental charges of from $2 to $5 per day from employed inmates while other halfway houses were collecting nothing. We also noted that the $2 per day figure had been established 16 years earlier and thought that consideration should be given to updating it.

Because the collection of rent offers the potential to help offset the costs associated with operating the Bureau's halfway house program, we discussed these matters with Bureau officials. They told us that their policy was not being enforced. Subsequently, on December 23, 1981, the Bureau published an operations memorandum stating that, in the past, it had allowed contractors to collect rent from halfway house residents. The memorandum went on to state that this practice is now being encouraged and that

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the rent collected will be deducted from the costs the Bureau is to pay to the contractor.

Although the memorandum appears to place more emphasis on the collection of rent, we are concerned that it might not result in a more consistent application of Bureau policy. Because the practice of collecting rent is only being encouraged, some halfway houses might opt to collect it while others might not. Also, because the memorandum is silent as to how much rent halfway houses should charge, a question exists as to whether the Bureau still considers the $2 rate to be reasonable and, if so, whether that rate will be consistently charged to halfway house residents.

CONCLUSIONS

There is a need for a sentencing alternative to help fill the void between confinement in an institution and probation. On the basis of our work in States that operate such programs and because of the current overcrowding situation in Federal prisons, the decision to postpone testing such an alternative should be reconsidered. If the prison population continues to increase, and indications are that it will, it would be useful to have information on the utility of this project to determine how best to cope with overcrowding.

Also, the Bureau needs to determine what action halfway houses are taking in response to its December 1981 memorandum on the collection of rent from inmate residents. Because the memorandum only encourages halfway houses to collect rent and is silent as to how much rent should be charged, we are concerned that the problems we noted during our review may continue to exist.

RECOMMENDATIONS

In view of the need for a sentencing alternative and the overcrowded situation in Federal prisons, we recommend that the Department direct the Director of the Bureau of Prisons to reconsider the decision to postpone the alternative sentencing pilot project.

We also recommend that the Bureau determine what action halfway houses take regarding the collection of rent from employed inmates. If the Bureau finds that unjustifiable inconsistencies still exist regarding whether inmates pay or the amount they pay, we recommend that the Bureau revise its policy and/or implementing instructions to ensure that charges to inmates for rent are made on an equitable basis.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice commented on a draft of this report by letter dated May 21, 1982.

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In commenting on our recommendation that the Bureau reconsider the decision to delay implementation of the pilot project, the Department stated that it continues to support the concept of using community-based correctional programs for direct commitments but that the availability of funds to continue the pilot project remains a most critical factor. The Department stated that it currently did not have sufficient funding to fully support the halfway house programs already developed and that, under these circumstances, it would not be a prudent decision to start additional programs. The Department stated further that, at such time as sufficient funds become available to support an expanded halfway house program, it will consider continuation of the pilot project.

We recognize that sufficient funds are not available to operate both the halfway house program at its current level and the pilot project. However, we believe that other factors have a bearing on any future decision regarding the pilot project. The factors include the overcrowded conditions in Federal correctional facilities, the likelihood that the overcrowding problem will need to be addressed, and the fact that testing an alternative can best be done under noncrisis conditions. Also, such a test might provide the Bureau with an incarceration alternative that could negate the need to build additional institutions.

We are retaining our recommendation to the Attorney General to reconsider the decision regarding the pilot project for two reasons. First, the factors mentioned above need to be considered as well as the availability of funds. Second, the Department, in commenting on our draft report, referred only to the lack of funds as support for its decision. We recognize that the Department is faced with the same problem as most other Federal agencies--stretching its resources to meet heavy demands--and that this situation usually involves trade-offs. In this case, the Department was faced with a choice that involved pursuing an incarceration alternative at some expense to its halfway house program operations. We recognize the Department's dilemma. We believe, however, that in arriving at the decision to delay implementation of the pilot project, the Department placed too much emphasis on its short-term objectives and gave insufficient consideration to how this decision would impact on its more costly and significant long-term problem of overcrowded prisons. Consequently, we believe the Department should re-think its decision regarding pilot project testing--giving due consideration to its less immediate, but more important, long-term problem.

Regarding our recommendation on the collection of rent from Federal prisoners while they are in halfway house programs, the Department stated that the Bureau agreed that, to the extent practicable, inconsistent collections from halfway house residents should be eliminated.

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The Department pointed out that the Bureau does not have the authority to mandate policy for contract programs and contractors have always had the option of collecting or not collecting rent from Federal halfway house residents. However, the Department stated that it is the Bureau's concern and desire that collections of rent from halfway house residents be done on an equitable basis and every effort will be made to press contractors to meet this condition. As we pointed out in our draft report, some halfway houses were charging rent of from $2 to $5 per day. Therefore, we continue to believe that additional guidance should be provided by the Bureau on the amount that it is striving to collect. Such guidance would help achieve consistency in the amounts collected.

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We wish to thank you for the cooperation extended to us during this survey. As you know, Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of this report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director, Office of Management and Budget.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

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U.S. Department of Justice

Washington, D.C. 20530

MAY 21 1982

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

We are responding to your request for the comments of the Department of Justice (Department) on your draft report entitled "Community-Based Correctional Programs Could Be More Extensively Used Within the Federal Criminal Justice System."

The General Accounting Office (GAO) makes two recommendations. First, GAO recommends that the Bureau of Prisons (BOP) reconsider the decision to delay implementation of a pilot project that would explore the expanded use of community treatment centers (CTCs) for direct court commitments. Second, GAO recommends that BOP set a firm policy regarding the collection of rent from Federal prisoners while they are in CTC programs. Each of these recommendations is discussed separately below.

Delay of Pilot Project

BOP has used CTCs to assist inmates being released from prison for the past 20 years. Also, during that period, BOP has encouraged the courts to make direct commitments to CTCs whenever such commitments would be considered appropriate. Because of the Department's interest in using the CTCs as a sentencing alternative, the pilot project cited in the draft report was designed to expand the use of CTCs by the courts. The Department continues to support the concept of using community-based correctional programs for direct commitments, but the availability of funds to continue the pilot project remains a most critical factor. Unfortunately, we currently do not have sufficient funding to fully support the CTC programs already developed. Under these circumstances, it would not be a prudent decision to start additional programs. At such time as sufficient funds become available to support an expanded CTC program, we will reconsider continuation of the pilot project.

Collection of Rent from CTC Residents

The draft report recommends that BOP policy be revised to "ensure that charges to inmates for rent are made on an

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equitable basis." The concern expressed by GAO appears to center on inconsistent collections of rent by different CTCs.

BOP agrees that to the extent practicable, inconsistent collections from CTC residents should be eliminated. However, BOP does not have authority to mandate policy for contract programs. The 1965 policy cited by GAO, which requires the collection of $2.00 per day for employed inmates, applies only to programs operated by the Federal Prison System. Contractors have always had the option of collecting or not collecting rent from Federal CTC residents.

When purchasing program services, as opposed to BOP supplying the services, contract requirements are subject to negotiation. In a large city where several CTC programs compete for a contract, BOP can specify requirements and select the program that most efficiently meets those requirements. This could include the collection of a specific amount of money from the Federal CTC residents, thus resulting in a lower per diem cost to the Government.

In many areas, however, there is only one CTC program. In such situations the program may refuse to meet some of BOP's contract specifications. BOP must then decide whether it is better to contract for a program that does not meet all of its requirements or to have no program in that area. As an example, some state programs have their own policy specifying the amount of rent to be collected, thus precluding any opportunity for negotiation.

In spite of the fact that BOP cannot promulgate policy for CTCs, it is their concern and desire that collections of rent from CTC residents be done on an equitable basis. Every effort will be made to press contractors to meet this condition.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information pertaining to our response, please feel free to contact me.

Sincerely,

Kevin D. Rooney
Assistant Attorney General
for Administration

(182692)